

these devices that were legally in commercial distribution before May 28, 1976, or found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing during FDA's review of the PMA or notice of completion of the PDP, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Comments

Interested persons may, on or before October 10, 1995, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before July 26, 1995, submit to the Dockets Management Branch a written request to change the classification of the OTC denture cushion or pad or the OTC denture repair kit. Two copies of any request are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 872 be amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 872.3540 is amended by revising paragraph (c) to read as follows:

§ 872.3540 OTC denture cushion or pad.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any OTC denture cushion or pad made of a material other than wax-

impregnated cotton cloth, not intended to be discarded after 1 day's use, and intended for a use other than short-term use, that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule based on this proposed rule), been found to be substantially equivalent to an OTC denture cushion or pad made of a material other than wax-impregnated cotton cloth, not intended to be discarded after 1 day's use, and intended for a use other than short-term use that was in commercial distribution before May 28, 1976. Any other OTC denture cushion or pad made of a material other than wax-impregnated cotton cloth, not intended to be discarded after 1 day's use, and intended for a use other than short-term use shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

3. Section 872.3570 is amended by revising paragraph (c) to read as follows:

§ 872.3570 OTC denture repair kit.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any OTC denture repair kit that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule based on this proposed rule), been found to be substantially equivalent to the OTC denture repair kit that was in commercial distribution before May 28, 1976. Any other OTC denture repair kit shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: June 26, 1995.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95-16962 Filed 7-10-95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[FRL-5227-1]

Hazardous Waste Management: Liquids in Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking to grant a petition.

SUMMARY: On November 18, 1992, the Agency promulgated a final rule on liquids in landfills. That rule satisfied a statutory requirement in the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 regarding the landfill disposal of containerized liquids. Specifically, the statute required EPA to issue a rule that prohibited the disposal in hazardous waste landfills of liquids that have been absorbed in materials that biodegrade. Today's proposed rulemaking, which provides increased flexibility to the regulated community, would add an additional test to demonstrate that a sorbent is non-biodegradable.

In the final rules section of this **Federal Register**, EPA is promulgating a direct final rule without prior proposal because EPA views this as minor technical modification that merely broadens the scope of the testing. A detailed rationale for the amendment is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received by August 10, 1995.

ADDRESSES: Written comments (one original and two copies) should be addressed to: EPA RCRA Docket No. F-95-ALLP-FFFFF, room M2616, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. Call 202-260-9327 for an appointment to examine the docket. Up to 100 pages may be copied free of charge from any one regulatory docket. Additional copies are \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at 1-800-424-9346 (toll free), or 703-412-9810 in the Washington, D.C. area. For information on technical aspects of this rule, contact David Eberly, U.S. EPA, Office of Solid Waste (5303W), 401 M Street SW., Washington, DC 20460; 260-4288.

SUPPLEMENTARY INFORMATION:

I. Authority

This rule is being proposed under the authority of section 3004(c) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984; 42 U.S.C. 6924(c).

II. Additional Information

For additional information, see the direct final rule published in the rules section of this **Federal Register**.

Dated: June 30, 1995.

Fred Hansen,

Acting Administrator.

[FR Doc. 95-16950 Filed 7-10-95; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 89-553, PP Docket No. 93-253, GN Docket No. 93-252]

Request for Comments in 900 MHz SMR Proceeding

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On April 17, 1995, the Commission released a Second Report and Order and Second Further Notice of Proposed Rule Making in PR Docket No. 89-553, PP Docket No. 93-253, and GN Docket No. 93-252, FCC 95-159, 60 FR 21987 and 60 FR 22023, published May 4, 1995, adopting service rules and requesting comment on competitive bidding procedures for Specialized Mobile Radio (SMR) systems in the 900 MHz Band. This Public Notice is a request for comments in the 900 MHz SMR Proceeding on the appropriate measures to address the issues raised by the Supreme Court's recent decision in *Adarand Constructors, Inc. v. Peña*, as it may relate to the proposed treatment of designated entities in the 900 MHz SMR auction.

DATES: Comments may be filed on or before July 14, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Amy J. Zoslov, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-0620.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice in PR Docket No. 89-553, PP Docket No. 93-253, and GN Docket No. 93-252, released June 20, 1995, requesting comment in the 900 MHz SMR Proceeding. The full text of this Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, DC, and may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

By this action, we request comment on the appropriate measures to address the issues raised by the Supreme Court's recent decision in *Adarand Constructors, Inc. v. Peña*¹ ("Adarand") as it may relate to the proposed treatment of designated entities in the 900 MHz SMR auction.² The term "designated entities" refers to small business, rural telephone companies, and businesses owned by minorities or women.³ Because the *Adarand* decision was announced at the conclusion of the reply comment period for the *900 MHz SMR Auction Notice*,⁴ interested parties did not have a sufficient opportunity to address this issue for the record.

Adarand imposes a strict scrutiny standard for evaluating federally imposed race-conscious provisions. That standard requires us to show a "compelling government interest" for taking race into account.⁵ Under *Adarand*, the agency must show that it considered "race-neutral alternatives" and that the program is "narrowly tailored" to meet the compelling

governmental interest established by the record and findings.⁶ Therefore, we invite comment specifically on the impact of the *Adarand* decision on the proposals we have set forth with respect to the treatment of designated entities in the auction rules for the 900 MHz SMR service.⁷

Interested parties may file comments on or before July 14, 1995. In the interest of expediting the rule making proceeding in this docket and initiating an auction for the 900 MHz SMR service, we are not inviting reply comments. An original and four copies of all comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. If you would like each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies with the Office of the Secretary. Comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. This is a non-restricted proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules.⁸

Action by the Chief, Wireless Telecommunications Bureau, June 30, 1995. For additional information concerning this proceeding, contact Amy Zoslov (Legal Branch, Commercial Wireless Division) at (202) 418-0620.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.

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ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1552

[FRL-5225-7]

Acquisition Regulation; Compliance With EPA Policies for Information Resources Management

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This document proposes a change to the Environmental Protection

⁶ *Id.*

⁷ See 900 MHz SMR Auction Notice at ¶¶ 122-147.

⁸ See generally 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

¹ 63 U.S.L.W. 4523 (U.S. June 12, 1995).

² See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool, Second Report and Order and Second Further Notice of Proposed Rule Making, PR Docket No. 89-553, 60 FR 21987 (May 4, 1995).

³ Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, § 6002(a), 107 Stat. 312, 388 (1993).

⁴ See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool, Order, PR Docket No. 89-553, DA 95-1174, released May 26, 1995 (extending the reply comment deadline to June 12, 1995).

⁵ *Adarand*, 63 U.S.L.W. at 4530.